



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

August 21, 2006

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Deanna Sprinkel, Sean Sprinkel, and Evelyn Sprinkel through
her Guardian Ad Litem Deanna Sprinkel v. County of
Los Angeles, et al.
Los Angeles Superior Court Case No. GC 034 916

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$2,500,000.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Parks and Recreation.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed for your information is the Corrective Action Report submitted by the Department of Parks and Recreation.

Return the executed, adopted copy to Georgene Salisbury, Suite 648
Kenneth Hahn Hall of Administration, Extension 4-1803.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria M. Oms", is written over a horizontal line.

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosures

MEMORANDUM

August 1, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: COLLINS, COLLINS, MUIR & STEWART LLP
John Collins, Esq.

BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: Deanna Sprinkel, Sean Sprinkel, and Evelyn Sprinkel through her
Guardian Ad Litem Deanna Sprinkel v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. GC034916

DATE OF
INCIDENT: November 28, 2004

AUTHORITY
REQUESTED: \$2,500,000

COUNTY
DEPARTMENT: Department of Parks and Recreation

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☒

Recommend to Board of
Supervisors for Approval



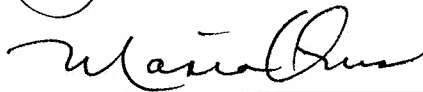
ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on August 21, 2006

SUMMARY

This is a recommendation to settle for \$2,500,000 the lawsuit brought by Deanna Sprinkel, Sean Sprinkel, and Evelyn Sprinkel, through her Guardian Ad Litem, Deanna Sprinkel, seeking damages for personal and emotional injuries sustained in a motor vehicle accident with an employee of the Department of Parks and Recreation on November 28, 2004.

LEGAL PRINCIPLE

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

Deanna Sprinkel was seriously injured while visiting the Los Angeles County Arboretum when a County tram collided into her as she was kneeling at the edge of an asphalt roadway feeding her one-year-old daughter, Evelyn Sprinkel, who was seated in a stroller. At the time of the collision, the tram driver was driving slowly between five and eight miles per hour, but he failed to see either Ms. Sprinkel or the baby stroller on the side of the roadway. Unfortunately, the driver did not realize that he had hit Ms. Sprinkel until witnesses on the tram told him to stop. As a result, Ms. Sprinkel was dragged for twenty-five to thirty feet under the tram. While it is unclear whether the tram actually struck the baby stroller, Evelyn Sprinkel was not injured. At the time of the accident, Ms. Sprinkel's husband, Sean Sprinkel, was nearby and saw his wife being dragged by the tram.

DAMAGES

Ms. Sprinkel sustained serious knee and back injuries. She has undergone three surgeries to her knee, and may need two to three knee replacements in the future. She has been diagnosed with arthrofibrosis, which is an overproduction of scar tissue, and Reflex Sympathetic Dystrophy, which is a condition that causes pain, swelling and sensitivity to touch. She also sustained a compression fracture to her lower back. Because of her injuries, Ms. Sprinkel may not be able to return to her former occupation as a finance assistant. Mr. Sprinkel claims he suffered serious emotional distress as a result of seeing his wife being dragged by the tram.

Should this matter proceed to trial, Ms. Sprinkel is anticipated to offer evidence of damages as follows:

Past medical expenses	\$ 170,000
Future loss of earning capacity (PV)	\$ 1,166,121
Pain and suffering	\$ 3,000,000
Future vocational training	\$ 10,276
Future medical expenses	\$ 150,000
TOTAL	<u>\$ 4,496,397</u>

We anticipate that Mr. Sprinkel and Evelyn Sprinkel will offer evidence of damages as follows:

Past counseling expenses (Sean Sprinkel)	\$ 1,856
Emotional distress damages	\$ 500,000
Past medical expenses (Evelyn Sprinkel)	\$ 89
TOTAL	<u>\$ 501,945</u>

STATUS OF CASE

This case was mediated on April 24, 2006, however, it did not result in settlement. On May 1, 2006, we advised the Board of Supervisors of the Sprinkel's settlement demand of \$3,200,000. Further discovery and negotiation by the County's defense attorneys with the Sprinkel's attorney resulted in the proposed settlement amount with an allocation as follows:

Deanna Sprinkel:	\$ 2,395,000
Sean Sprinkel:	\$ 100,000
Evelyn Sprinkel	\$ 5,000
TOTAL	\$ 2,500,000

The Sprinkels intend to have the settlement proceeds placed in a structured account with a County-approved structured settlement company. The trial date for this case was vacated to allow for action on this proposed settlement.

Approximate expenses incurred by the County in defense of this matter are attorneys' fees of \$27,321 and costs of \$12,166. These expenses include depositions, consultation with an accident reconstruction expert and economist to evaluate the value of this case, and legal research to determine the potential verdict award.

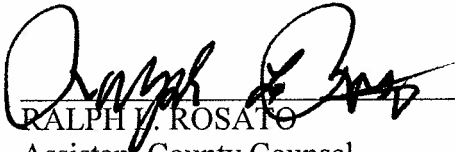
EVALUATION

This is a case of undisputed liability. The County tram driver, who was 86 years old at the time of the accident, failed to see Ms. Sprinkel and the baby stroller at the edge of the roadway. Incidentally, this was the tram driver's last day of work before retiring. A jury will likely find that the tram driver was driving inattentively and should have exercised greater caution having due regard for the visibility of the road and the fact that pedestrians may encroach into the arboretum roadways. The likelihood of continued pain and suffering is high because of the probable future knee replacement surgeries, and scar tissue revision, and neurological complications. Defense medical experts also substantially concur with the treating physicians' prognoses for future treatment. A jury may also find that Mr. Sprinkel suffered significant emotional distress for having seen his wife being dragged under the tram. A reasonable settlement of this action at this time, however, will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

RECOMMENDATION

We join with our third party administrator, Carl Warren and Company, and our private counsel, Collins, Collins, Muir and Stewart, in recommending a settlement of this matter in the amount of \$2,500,000. The Department of Parks and Recreation concurs in this settlement recommendation.

APPROVED:



RALPH J. ROSATO
Assistant County Counsel
General Litigation Division

RLR:bh

**County of Los Angeles
Department of Parks and Recreation**

CORRECTIVE ACTION PLAN

LAWSUIT OF: Deanna Sprinkle, et al, v. County of Los Angeles
Superior Court of the State of California
Case No. GC034916

INCIDENT DATE: November 28, 2004, approximately 11:10 a.m.

INCIDENT LOCATION: Los Angeles County Arboretum,
301 North Baldwin Avenue, Arcadia, CA 91006

RISK ISSUES: The County of Los Angeles can be held liable for the negligent operation of its vehicles by its employee working within the course and scope of his employment that results in injury to persons or property.

INVESTIGATIVE REVIEW: On Sunday, November 28, 2004, at approximately 11:10 a.m., a tram versus pedestrian accident occurred in the vicinity of the Herb Garden and the restrooms near the Bamboo Garden at the Los Angeles County Arboretum. While Deanna Sprinkle was kneeling down and attending to her daughter seated in her stroller, a *1985 AAIACL Technology Tram* driven by a County employee approached Mrs. Sprinkle's position. The County driver, however, did not see Mrs. Sprinkle and the tram collided into her. Mrs. Sprinkle was dragged about 25 to 30 feet and was pinned under the tram. She received significant injuries.

The County driver had worked as a Tour Guide since 1955 and had been driving the trams for as long as they had been in use at the Arboretum with no previous accidents. At the time of the accident, the County driver possessed the required commercial driver's license to drive this type of vehicle, had recently passed his annual physical, and had been enrolled in the Department of Transportation (DOT) Random Drug and Alcohol Testing Program for Commercial Drivers. The County driver, who has since retired from County service, was driving at a reasonable speed of five to eight miles per hour and there was no evidence that he was under the influence of drugs or alcohol at the time of the accident.

Initial and follow-up investigations of the incident revealed that the paved roadway at the Arboretum is used concurrently by the trams, Arboretum pedestrian visitors, and other facility maintenance vehicles and is not striped and/or marked in a manner that specifically indicates where visitors should walk. In addition, there are no signs warning visitors to be aware of moving vehicles. Visitors exiting the Gift Shop and coming into the Arboretum grounds are not aware that there are vehicles in motion as there are no signs, warnings, or walkway markings that would imply or convey "Caution, tram approaching". Throughout the facility we found that visitors tend to congregate at each

tram stop where there were restrooms and drinking fountains. Also noted was that even though the tram has scheduled stops, there are no signs along the way to indicate to visitors that there are moving vehicles on the path.

TRAINING ISSUES: Currently and at the time of this accident, the County of Los Angeles Department of Parks and Recreation has had in place a wide variety of written policies and procedures concerning the safe operation and inspection of motor vehicles. These written policies and procedures include the following:

- Drivers Selection/License Class
- Defensive Driving Training
- Annual Driver's License Verification
- Vehicle Operator's Records
- Enforcement of mandatory wearing of seat belts on all trips
- Employee Driver Performance

After an accident and to improve safety awareness, supervisors discuss with the employee the circumstances of the accident and safety precautions that can be employed in the future. Drivers are also informed verbally about yielding the right of way to all pedestrians and animals at all times.

POLICY ISSUES: There are no specific County regulations related to the operation of trams on County property. However, the Department of Parks and Recreation applies its rules, policies, and procedures for motorized vehicles, and specifically those for specialized motorized vehicles such as trams.

CORRECTIVE ACTION: As a result of this incident and the subsequent follow-up investigation, this Department is implementing the following corrective measures and action plan designed to mitigate the possibility of this type of incident from reoccurring in the future.

1. The manufacturer of the *1985 AAIACL Technology Tram* is out of business and the tram has been taken out of service. A new replacement, a *Trams International Model 6000* low speed people mover tram, is currently being purchased for use at the Arboretum. Trams are often operated in the midst of pedestrian traffic, including children of all sizes. It is important that tram drivers have maximum visibility of the environment around the tram. The *Trams International Model 6000* design allows a 5'6" driver to see a 3'6" child standing just one foot in front of the tram.
2. *Trams International* representatives will thoroughly train Arboretum tram drivers in the safe operation of the *Model 6000* low speed people mover tram before the new equipment is allowed to operate on Arboretum grounds. The Department is researching whether or not the manufacturer could provide this training annually.

3. The Department will develop comprehensive written safety guidelines, rules, and/or regulations associated with the operation of trams on Arboretum grounds.
4. In addition to the Department's existing policy requiring annual defensive driving training for all employees, both permanent and temporary, who are required to drive a County vehicle as part of their job or who are approved as a mileage permittee, the Department will also include an "Off-Road Defensive Driving" component to this annual training effective fiscal year 2006-07. This program is unique to employees of Parks and Recreation due to the scope of work performed while driving off-road around patrons and pedestrians.
5. The Department has initiated a traffic study of the tram route with the Department of Public Works' Traffic and Lighting Division to develop design and specifications for safety striping of the tram route with two adjacent pedestrian paths, various tram passenger loading and unloading stations, and safety signage for Arboretum visitors. The Department will ensure that all recommended items on this tram route study/design are fully implemented and the striping is installed as soon as possible.

SUMMARY: This Department is committed to ensuring safe driving practices and all related driving policies and procedures are strictly enforced and followed by all Department staff. The Department has nearly completed the first corrective action and will begin to implement the additional training component very soon.